

1 UNITED STATES DISTRICT COURT WESTERN DISTRICT OF WASHINGTON
2 AT TACOMA

3 UNITED STATES OF AMERICA,

4 Plaintiff,

5 v.

6 JOSEPH ANTHONY TURREY,
7 Defendant.

Case No. CR21-5385-BHS
DETENTION ORDER

8 THE COURT, having conducted a detention hearing pursuant to 18 U.S.C.
9 Section 3142, finds that no condition or combination of conditions which defendant can
10 meet will reasonably assure the safety of any other person or the community. The
11 defendant is represented by Julian E. St. Marie. The government is represented by
Assistant United States Attorney Angelica J. Williams.

12 The defendant is charged with Aggravated Sexual Abuse of a Minor, regarding
13 Minor Victim (MV) 1 (Count 1); Aggravated Sexual Abuse of a Minor, regarding MV 2 (Count 2) and Sexual Abuse of a Minor regarding MV 2 (Count 3). Dkt. 9, Indictment.
14 The government filed a motion for detention (Dkt. 3), alleging that the presumption of
15 detention applies, and asserting that if released, Mr. Turrey would pose a substantial
16 risk of flight, risk of non-appearance, and risk of dangerousness to others and to the
17 community.

18 The Court considered the documents in the record, heard information and
19 argument presented during the hearing on December 9, 2021, and information provided
20 by the Pretrial Services Officer, Leona Nguyen, including the pretrial services reports
21 (Dkts. 4, 25).

22 The government met its burden of proving by clear and convincing evidence that
23 the defendant presents a significant risk of danger to others or to the community.

1 The charges, involving sexual offenses against his daughters, and a violent
2 offense, trigger the rebuttable presumption of detention, that “no condition or
3 combination of conditions will reasonably assure the appearance of the person as
4 required and the safety of the community.” 18 U.S.C. §§ 3142(e)(1), (e)(2)(E),
5 (f)(1)(A). The presumption operates to shift the burden of production to the
6 defendant. *United States v. Hir*, 517 F.3d 1081, 1086 (9th Cir. 2008). The
7 prosecution has the burden of persuasion. *Id.* If the defendant proffers evidence to
8 rebut the statutory presumption, this does not mean the presumption has been
9 erased; it simply means the presumption is an evidentiary finding that militates
10 against release, and is weighed along with the other factors identified in 18 U.S.C.
11 § 3142(g). *United States v. Hir*, 517 F.3d at 1086.

12 The four factors are: 1. Nature and seriousness of the charges; 2. Weight
13 of the evidence against the defendant; 3. History and characteristics of the
14 defendant; and 4. “Nature and seriousness of the danger to any person or the
15 community that would be posed by the person’s release.” 18 U.S.C. § 3142(g)(1)-
16 (4). The Bail Reform Act recognizes that release should be the normal course, and
17 “detention prior to trial or without trial is the carefully limited exception.” *United*
18 *States v. Salerno*, 481 U.S. 739, 755 (1987). In evaluating whether the defendant
19 poses a serious potential for dangerousness, it is not necessary for the
20 government to produce, or for the Court to rely on, evidence of prior convictions
21 for violent crimes. *United States v. Hir*, 517 F.3d at 1091-92; *United States v.*
22 *Rodriguez*, 950 F.2d 85, 88-89 (2d Cir. 1991).

24 Even with conditions by which the defendant’s whereabouts could
potentially be monitored, the Court finds that there are no conditions of release

1 that would effectively mitigate the potential for dangerousness to others or to the
2 community.

3 The current offenses were allegedly committed while Mr. Turrey was in
4 sexual situations with his daughters where no other people who were present or
5 nearby were aware of what was happening, and therefore he avoided third party
6 witnesses. Dkt. 1, e.g., Complaint, at 4 (allegation of sexual abuse that occurred
7 while defendant was on the bed in the parents' room, with daughter MV 1, who
8 stated she was "terrified", and was only six or seven years old at the time), and 7
9 (MV 2 stated that the defendant told her she had to be quiet so she would not wake
10 up her siblings while he was touching and penetrating her vagina). And, the
11 government asserts that Mr. Turrey has made inculpatory statements in 2016, and
12 again in 2021, to his ex-wife, one of his daughters, and to his son. See Dkt. 1,
13 Complaint, at 5, 9.
14

15 The facts alleged in the Complaint, and the additional facts of the
16 government's proffer, convince the Court that his threat to the community
17 continues and his behavior cannot be successfully controlled by imposing
18 structured supervision. These allegations include threats, where Mr. Turrey
19 allegedly told one of his daughters that if she told anyone about the sexual
20 assaults, he would then sexually assault her younger siblings. Dkt. 1, Complaint,
21 at 6-7. Such surreptitious behavior, and threatening conduct toward an alleged
22 minor victim, shows that Mr. Turrey has allegedly manipulated trusted family
23 relationships, used secrecy, and made threats, as ways he committed these
24 offenses. Using secrecy, manipulating relationships, or making threats, would

1 indicate he would be likely to evade detection if he were to violate conditions while
2 on supervised release.

3 During the hearing, the Court heard defense evidence of Mr. Turrey's
4 impressive record of military service and success in civilian work. The defense
5 explained that Mr. Turrey has community support and many friends who are willing
6 to help him find work, and to provide a home where he can live during pretrial
7 proceedings. And, the defense proposed that Mr. Turrey should be released to live
8 with friends. Dkt. 23, Dkt. 26, and exhibits incorporated by reference. The pretrial
9 officer confirmed this information. Dkt. 25. Mr. Turrey has significant ties to the
10 community, and is economically stable.

11
12 The Court agrees with the Supplemental Pretrial Services Report (Dkt. 25),
13 and finds none of these options would be a viable release plan under the Bail
14 Reform Act, because the Court cannot effectively prevent the defendant from
15 leaving these locations or from having visitors come to see him at such locations.
16 In addition, the pretrial officer noted that one of the victims alleged he was
17 sometimes drunk when the sexual offenses happened. Dkt. 1 at 8; Dkt. 25 at 4.
18 Even with electronic location monitoring, the defendant would potentially be able
19 to obtain access to minors, and access to alcohol, because these would not be
20 locked facilities – the Court finds that, based on the allegations of repeated sexual
21 abuse, including rape allegations, and threats, against minor children over several
22 years, as well as inculpatory statements of the defendant, a locked facility is
23 necessary to protect the community.

24 This finding is based on:

- 1) the nature and circumstances of the charged offenses, including allegations of repeated sexual abuse including rape, against minor children, and violence, with threats;
- 2) the weight of the evidence against the person;
- 3) the history and characteristics of the person;
- 4) no criminal history;
- 5) no history of failure to appear; and
- 6) the nature and seriousness of the danger release would impose to any person or the community.

Order of Detention

- < The defendant shall be committed to the custody of the Attorney General for confinement in a corrections facility separate, to the extent practicable, from persons awaiting or serving sentences or being held in custody pending appeal.
- < The defendant shall be afforded reasonable opportunity for private consultation with counsel.
- < The defendant shall on order of a court of the United States or on request of an attorney for the government, be delivered to a United States Marshal for the purpose of an appearance in connection with a court proceeding.

Dated this 10th day of December 2021.

Theresa L. Friske

Theresa L. Fricke
United States Magistrate Judge